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Attorneys For William Wise

**U.S. DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA, Respondent/Plaintiff,	)	Case No.: CR 12-111 EMC CR 12-642 EMC
	)	
vs.	)	UNOPPOSED APPLICATION/REQUEST
	)	FOR ORDER MODIFYING BRIEFING
WILLIAM WISE,	)	SCHEDULE FOR DEFENDANT'S MOTION
Petitioner/Defendant	)	TO VACATE, SET ASIDE OR CORRECT
		SENTENCE BY A PERSON IN FEDERAL
		CUSTODY 28 U.S.C. § 2255

Petitioner Wise hereby requests that the time to file his Response to the Government's Motion to Dismiss be extended by thirty (30) days from May 16, 2016 to June 15, 2016. There is substantial good cause for this extension. Counsel for the Government requested permission to file oversized briefs "due to the number of issues involved," and has filed an unusually lengthy 50-page Motion to Dismiss, which is

1 includes many arguments that should, more properly, have been presented as part of an  
2 Answer to Petitioner's 2255 motion rather than in a motion to dismiss. Petitioner Wise  
3 has been transferred to the BOP facility at Terminal Island, and, because of  
4 administrative delays, Attorney Clough was not approved to visit Petitioner before his  
5 last trip to southern California, and thus counsel has been unable to communicate  
6 effectively with Wise regarding the Government's motion.

7 Counsel for Petitioner believe that 30 days will be sufficient to permit them to  
8 travel to southern California and consult with their client and prepare a response to the  
9 Government's motion.

10 Counsel for the government does not object to this motion.

11 If this application were to be denied Petitioner Wise would suffer substantial  
12 prejudice. For these reasons, there is good cause to grant this application.

13  
14 DATED: May 11, 2016

15 Respectfully Submitted,

16  
17 s/ Michael Clough  
18 MICHAEL CLOUGH  
19 ATTORNEY FOR PETITIONER  
WILLIAM WISE

20 DECLARATION OF COUNSEL

21 In support of this application, I declare:

22 1. The Government filed a lengthy 50-page Motion to Dismiss Defendant's § 2255  
23 Motion on April 18, 2016. Petitioner's Response is due on May 16, 2016.

24 2. Before the Government filed its Motion to Dismiss, Petitioner Wise was  
25 transferred to FCI Terminal Island. After learning that Petitioner had been transferred to  
26 FCI Terminal Island, I diligently attempted to make arrangements to be cleared to visit  
27 him while I was in southern California working on another case. On May 1, 2016, I went  
28

1 to Terminal Island on the understanding that I had been cleared, but the counselor had  
2 failed to complete the paperwork, so I was not permitted to visit; and on the following  
3 day, I was advised that all visits had been cancelled. I am now formally approved, but  
4 will not be back in southern California until sometime in the next two weeks. Given the  
5 issues raised in the Government's motion to dismiss, I cannot effectively represent  
6 Petitioner and complete his Response without first being able to communicate with him  
7 directly and confidentially.

8 3. In addition, the Government's motion to dismiss is unusually long. Some of the  
9 issues are -- e.g. waiver -- are properly raised in a motion to dismiss. But many other  
10 issues which are styled as failure to state a claim involve contested issues of fact and  
11 legal arguments that would commonly be presented in an Answer to the motion. Because  
12 of this and the length of the Motion, counsel requires additional time to prepare and file  
13 an appropriate and complete response to the motion.

14 4. If this extension is not granted, Petitioner Wise will suffer substantial prejudice  
15 and his constitutional right to access to this Court would be effectively eviscerated.

16 5. Counsel for the Government does not object to this application and the  
17 Government will suffer no prejudice from an extension.

18 6. I do not anticipate requesting any further extensions.

19 7. For these reasons, I believe there is good cause to grant this unopposed  
20 application/request to modify the briefing order and extend the deadline for Petitioner's  
21 response to the Government's motion from May 16, 2016 to June 15, 2016.

22 DATED: May 11, 2016

23 Respectfully Submitted,  
24 s/ Michael Clough  
25 MICHAEL CLOUGH

26 Date: May 12, 2016

